IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

Crl.MC.No. 1752 of 2007()

ST.1869/2007 of JUDL. MAGISTRATE OF FIRST CLASS-IV (MOBILE), TRIVANDRUM

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PETITIONER:

MAJITHA BEEVI, AMINA,
KALLAMBALAM, THIRUVANANTHAPURAM.

BY ADV. SRI.R.MANOJ
SMT.SINDHU MANOJ

RESPONDENTS:

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1. THE SENIOR MANAGER, KERALA STATE CO-OPERATIVE BANK LIMITED, HEAD OFFICE BRANCH, PALAYAM, THIRUVANANTHAPURAM.

2. STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 31/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1752 of 2007

Dated this the 31st day of May, 2007

ORDER

Petitioner faces indictment in a prosecution under Section 138 of the N.I Act. Proceedings have been initiated by the respondent, a Co-operative Bank, through its Senior Manager. There was a delay in filing the complaint. The complaint was accompanied by an application for condonation of delay. There were two other connected cases also. The petitioner had received notice. Cases were being posted from time to time. Payments were being effected towards the liability.

2. On account of an error, the date of posting was not noted correctly and this has led to issue non bailable warrant against the petitioner. The petitioner, in these circumstances, has rushed to this Court. It is prayed that appropriate directions may be issued under Section 482 Cr.P.C. The entire liability has been discharged and the complainant will not be interested in prosecuting the case now, it is submitted.

3. I accept the submissions of the learned counsel for the petitioner at the Bar that the application for condonation of delay is not disposed of. It is only in the fitness of things that the learned Magistrate should take up the complaint for consideration only after

disposal of the said application. Till then the warrant of arrest issued by the learned Magistrate against the petitioner shall not be executed. The petitioner can appear before the learned Magistrate and offer bail again. In the meantime, the matter can be settled. Settlement/composition can be taken and appropriate action can be taken without insisting on the personal presence of the petitioner on all dates of posting. With the above observations, this Crl.M.C is, allowed to the above extent.

4. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-